

## ALFRED SMITH

MAY 21 (legislative day, MAY 15), 1942.—Ordered to be printed

Mr. ROSIER, from the Committee on Claims, submitted the following

## REPORT

[To accompany H. R. 4629]

The Committee on Claims, to whom was referred the bill (H. R. 4629) for the relief of Alfred Smith, having considered the same, report favorably thereon with the recommendation that the bill do pass without amendment.

The facts are fully set forth in House Report No. 2003, Seventy-seventh Congress, second session, which is appended hereto and made a part of this report.

[H. Rept. No. 2003, 77th Cong., 2d sess.]

The Committee on Claims, to whom was referred the bill (H. R. 4629) for the relief of Alfred Smith, having considered the same, report favorably thereon with an amendment and recommend that the bill as amended do pass.

The amendment is as follows:

Strike out the language after the enacting clause and insert in lieu thereof: "That sections 15 to 20, inclusive, of the Act entitled 'An Act to provide compensation for employees of the United States suffering injuries while in the performance of their duties, and for other purposes,' approved September 7, 1916, as amended, are hereby waived in favor of Alfred Smith, who allegedly sustained an injury to his scalp in October or November 1938, while employed as a bricklayer with the Veterans' Administration, and his claim for compensation is authorized to be considered and acted upon under the remaining provisions of such Act, as amended, if he files such claim within six months from the approval of this Act: *Provided*, That no benefit shall accrue prior to the approval of this Act."

The purpose of the proposed legislation is to waive sections 15 to 20, inclusive, of the Employees' Compensation Commission Act of September 7, 1916, and to authorize the Commission to consider the claim of Alfred Smith upon its merits, for the alleged injuries to his scalp on October 31, 1938, while he was employed as a bricklayer at the Veterans' Administration Hospital, at Newington, Conn., with a provision that no benefits shall accrue prior to the approval of this act.

Your committee recommend the enactment of the bill, for the reason that the bill, as amended, merely waives the statute of limitations of the Employees' Compensation Commission Act, and allows Alfred Smith the right to file claim with the Employees' Compensation Commission, and for his claim to be considered upon its merits.

The facts of the case will be found fully set forth in report from the Veterans' Administration, dated November 5, 1941, and report of the Employees' Compensation Commission, dated December 13, 1941, which are appended hereto and made a part of this report.

VETERANS' ADMINISTRATION,  
Washington, November 5, 1941.

HON. DAN R. McGEHEE,  
Chairman, Committee on Claims,  
House of Representatives, Washington, D. C.

MY DEAR MR. McGEHEE: Further reference is made to your letter dated September 29, 1941, requesting a report on H. R. 4629, Seventy-seventh Congress, a bill for the relief of Alfred Smith, which provides:

"That the Chairman of the United States Employees' Compensation Commission be, and is hereby, authorized and directed to pay, out of any money in the Treasury not otherwise appropriated, to Alfred Smith a sum equal to the amount he would have received had his claim been filed within the statutory period for injury sustained by him while employed as a bricklayer at the Veterans' Administration hospital, at Newington, Connecticut."

The records of the Veterans' Administration indicate that Alfred Smith was employed at the Newington facility of the Veterans' Administration as a brick mason from September 14, through December 8, 1938.

Careful investigation has failed to locate Employees' Compensation Form C. A. 1 executed by Mr. Smith, giving notice of his alleged injury, or Form C. A. 2 executed by his official superior, making a report of such injury. The records of the Newington facility, however, indicate that Mr. Smith was referred, under date of October 31, 1938, to Dr. Kline for treatment of a contused wound of the scalp; that Dr. Kline treated such wound and recommended that he return to duty on the same day. It does not appear that Mr. Smith received any further treatment from Dr. Kline or any other medical officer of the Veterans' Administration.

In view of the foregoing, the Veterans' Administration has no objection to the proposed bill which would authorize the Employees' Compensation Commission to receive and consider the claim of Mr. Smith without regard to the statutory time limit for filing claim.

Very truly yours,

FRANK T. HINES, *Administrator.*

UNITED STATES EMPLOYEES' COMPENSATION COMMISSION,  
Washington, December 13, 1941.  
CHAIRMAN, COMMITTEE ON CLAIMS,  
House of Representatives, Washington, D. C.

DEAR MR. CHAIRMAN: Reference is made to your request for the Commission's report on the bill (H. R. 4629) for the relief of Alfred Smith. The bill provides:

"That the Chairman of the United States Employees' Compensation Commission be, and is hereby, authorized and directed to pay, out of any money in the Treasury not otherwise appropriated, to Alfred Smith a sum equal to the amount he would have received had his claim been filed within the statutory period for injury sustained by him while employed as a bricklayer at the Veterans' Administration Hospital, at Newington, Conn."

It appears from the Commission's files that on March 21, 1940, the Commission received a letter (undated) from Alfred Smith, of Yalesville, Conn., requesting "necessary papers for filing a claim for compensation"; that on March 28, 1940, the Commission forwarded to Mr. Smith necessary form for filing claim, together with instructions for completing it; that such form, however, was not thereafter filed by him with the Commission.

On May 13, 1940, the Commission received from Mr. Smith another letter (undated) which reads as follows:

"While working for the Government I received a scalp wound which at the time I thought was very slight; however, I filled out the necessary papers and had it attended to right away by a Government doctor. Later it showed no signs of getting better. So, being a veteran, I applied for treatment again about 3 or 4 months later but instead of getting better it got worse so I again went up

to the hospital and received treatment all within the year, but still the wound got bigger and bigger. So after losing my time and patience I was getting nowhere, besides the humiliations of having a bandage on my head all the time. I decided to go to a private specialist, who has been treating me ever since, and although he seems to be getting the best of it, it is going to leave an ugly scar on the top of my head, and as this has gone on for over a year and a half, I feel as though I am entitled to some compensation or reimbursement for my expenses and suffering. I would be very thankful if you could advise me as to what steps I could take. I will be very much obliged if you will answer this letter as soon as you can."

Under date of May 21, 1940, the Commission requested Mr. Smith to advise the name and address of the Government establishment by which he was employed, his occupation, the date he sustained injury, and other information. In response to this letter, Mr. Smith advised the Commission by letter dated June 4, 1940, as follows:

"In reply to your letter of May 21, I wish to say I have been trying to find the exact date of the injury but up to date I have not found out, but anyway it was somewhere around October or November 1938. I was a bricklayer working on partitions and alterations at the Newington hospital, Connecticut, and Colonel Simmonds was the officer in charge who was sent from Washington. It was him that signed the papers for medical care; after the injury I was treated by a Dr. Cline, head surgeon at that time, and later by a Dr. Richards, also of Newington hospital, and as the injury got to a serious nature I was forced to seek private attention by a specialist, Dr. Quinlin, of 5 State Street, Meriden, Conn., in whose care I am at the present time \* \* \*"

Since it appeared from Mr. Smith's letter of June 4, 1940, above quoted, that the injury he is alleged to have sustained occurred in October or November 1938, and as written notice of injury and claim for compensation were not filed within 1 year from the date thereof, as required by the mandatory provisions of sections 15 to 20, inclusive, of the Federal Employees' Compensation Act of September 7, 1916, the Commission was without authority of law to grant him any benefits under said act, and he was advised to that effect by letter dated June 22, 1940.

Since, for the reason stated above, the Commission had no authority to award compensation in this case, the merits of the case were not determined by the Commission. In this connection, however, the Commission calls attention to the fact that the Federal Employees' Compensation Act of September 7, 1916, applies generally to "civil employees" of the United States. Mr. Smith merely stated in his letter of June 4, 1940, that he was injured while working as a bricklayer on partitions and alterations at the Newington hospital, Newington, Conn. It did not, therefore, appear that his status would be necessarily that of a civil employee of the United States at the time of injury. It is not possible to determine from the information in the Commission's file in this case whether if he was a civil employee of the United States his case would come within the purview of the act of September 7, 1916, or that act as it has been extended from time to time to persons employed on work-relief projects.

The bill, H. R. 4629, would authorize and direct the chairman of this Commission to pay to Alfred Smith "out of any money in the Treasury not otherwise appropriated, \* \* \* a sum equal to the amount he would have received had his claim been filed within the statutory period for injury sustained by him while employed as a bricklayer at the Veterans' Administration Hospital, at Newington, Conn." In this connection the attention of the committee is invited to the fact that awards made under the compensation laws administered by this Commission are paid from funds in the Treasury. Under the Federal Employees' Compensation Act of September 7, 1916, this fund is known as the "employees' compensation fund." It may be observed that as this Commission has no power to make payments "out of any money in the Treasury not otherwise appropriated," it would not know what if any action it might properly take pursuant to this measure in case it should be enacted into law.

It is inferred that the real purpose of the proponent of the measure was to enable and require this Commission to act upon Mr. Smith's claim, when filed, notwithstanding his failure to file such claim within the time required by the act of September 7, 1916. If so, it is suggested that the measure be redrafted so as to waive the requirements of sections 15 to 20, inclusive, of the act of September 7, 1916, and authorize and direct this Commission to receive and act upon the said claim (if filed within 6 months after the passage of this act) under the other provisions of the said act of September 7, 1916, as amended and supplemented.

If a bill waiving such requirements is to be enacted, it is believed that the following provisos should be included in it: "Provided, That claim hereunder shall be filed within six months from the approval of this Act: *And provided further*, That no benefit shall accrue prior to the approval of this Act."

It is also noted that the bill contains no reference to the nature of the injury on account of which it proposes to extend relief. Such reference is customary and it is suggested that it be added for the purpose of the record and for identification of the case, as well as to place a proper limitation upon any relief granted.

In view of the foregoing the Commission feels constrained to recommend against the enactment of the bill, H. R. 4629, in its present form.

Very truly yours,

(Mrs.) JEWELL W. SWOFFORD,  
Chairman.

SEPTEMBER 30, 1941.

*To whom it may concern:*

This is to certify that I, Alfred Smith, of the district of Yalesville in the town of Wallingford, county of New Haven, and State of Connecticut, was injured while working at Newington hospital as a bricklayer when a spike on a ladder pierced the top of my head and I received medical attention right then at Newington hospital. The reason I didn't file any claim with the United States Government at that time is that I figured that it would heal up and I didn't think it was so serious. Within the year, I went back to Newington hospital for further medical treatment and it still didn't heal up. Later on I went to Dr. R. V. Quinlan, of Meriden, Conn., and he told me that it was a malignant growth caused from the above-mentioned accident. He advised me to put a claim in to the Government. The Government notified me that it had gone over the 12 months but the reason I didn't take it up was that I thought all along that the condition would clear up and I didn't think it was at all serious.

ALFRED SMITH.

Subscribed and sworn to before me this 30th day of September 1941.

[SEAL]

JOHN A. MCGUIRE,  
Notary Public and Town Clerk, Wallingford, Conn.

